

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

William O. Evans, Jr *as Trustee for the
Heirs and Next-of-Kin for Benjamin
Evans,*

Case No. 20-cv-2474 (MJD/ECW)

Plaintiff,

v.

ORDER

Brian Jeffery Krook, et al.,

Defendants.

This matter is before the Court upon the parties' Joint Motion for Continued Sealing (Dkt. 303) pursuant to Local Rule 5.6 concerning documents filed under seal relating to Defendants' Motion for Summary Judgment (Dkt. 231), Defendants' Motion to Exclude the Testimony of Dr. Justin King (Dkt. 246), and Defendants' Motion to Exclude the Testimony of State of Minnesota Experts Jeffrey Noble, Stuart Robinson and Derrick Hacker (Dkt. 251).

The parties agree or otherwise do not object to the continued sealing of Docket Entries 235, 247, 256, 258, 260, 261, 263, 265, and 266. (Dkt. 203 at 3-6.) "The fact that a document has been designated as confidential under a protective order alone is not a valid basis to keep the document under seal indefinitely for the purposes of Local Rule 5.6(d), which governs motions for further consideration of sealing in this District." *Nagel v. United Food & Com. Workers Union*, No. 18-CV-1053 (WMW/ECW), 2020 WL 6145111, at *1 (D. Minn. Oct. 20, 2020) (citing *Micks v. Gurstel Law Firm, P.C.*, No. 17-

CV-4659 (ECT/ECW), 2019 WL 220146, at *1 (D. Minn. Jan. 16, 2019)). The parties request that Docket Entries 235, 247, 256, 258, 260, 261, 263, 265, and 266 remain sealed because they contain confidential medical information pursuant to Minn. Stat. §§ 144.291 and 13.384, contain a birth date, and are designated as “Confidential” under the protective order governing this case. The parties filed redacted copies of Docket Entries 247, 256, 258, 261, 263, and 266 at entries 248, 257, 259, 262, 264, and 267 respectively.

Based on the parties’ representations and agreement, and the Court’s review of the documents, the Court concludes that the need to maintain the information in Docket Entries 235, 247, 256, 260, 261, 263, 265, and 266 under seal outweighs the public’s right of access. *See* D. Minn. LR 5.6(d) *advisory committee’s note*; *IDT Corp. v. eBay*, 709 F.3d 1220, 1224 (8th Cir. 2013).

As to Docket Entry 258, the Court finds that a renewed redacted copy of that entry must be filed. American courts “recognize a general right to inspect and copy public records and documents, including judicial records and documents.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978) (footnote omitted); *see also Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006) (“The common law right of public access to judicial documents is firmly rooted in our nation’s history.”); *Brown v. Advantage Eng’g, Inc.*, 960 F.2d 1013, 1016 (11th Cir. 1992) (“Once a matter is brought before a court for resolution, it is no longer solely the parties’ case, but is also the public’s case.”). Docket Entry 259 is a previously filed redacted copy of Docket Entry 258. Docket Entry 259, however, redacts portions of Docket Entry 258 that were

referenced in the unsealed Memorandum of Law & Order (Dkt. 312) ruling on several motions, including Defendants' dispositive motion. *See In re Baycol Prod. Litig.*, No. 08-CV-5758 (MJD/ECW), 2021 WL 1893897, at *2, 4 (D. Minn. May 11, 2021); *see also In re Guidant Corp. Implantable Defibrillators Prods. Liab. Litig.*, 245 F.R.D. 632, 636 (D. Minn. 2007). Based on the Court's review of Docket Entry 258, only the date of birth should be redacted. Accordingly, the parties are ordered to file a renewed redacted version of Docket Entry 258 with only the date of birth redacted on or before August 1, 2023. *See* Fed. R. Civ. P. 5.2(a), (d).

ORDER

For the reasons stated above, and based upon all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The parties' Joint Motion for Continued Sealing (Dkt. 303) is **GRANTED** as follows:
 - a. Based on the parties' representations and agreement, and the Court's review, Docket Entries 235, 247, 256, 260, 261, 263, 265, and 266 will remain **SEALED**.
 - b. Docket Entry 258 will remain **SEALED**, however, the parties shall file a renewed redacted version of that document on or before August 1, 2023 in accordance with this Order.

DATED: July 25, 2023

s/Elizabeth Cowan Wright
ELIZABETH COWAN WRIGHT
United States Magistrate Judge